

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to conditions of Medicaid eligibility

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” and Chapter 76, “Enrollment and Reenrollment,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 107.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 107.

Purpose and Summary

Currently, Medicaid may be available to a person who was pregnant or an infant under the age of one during any of the three months preceding the month in which an application is filed. 2018 Iowa Acts, Senate File 2418, section 107, extends this applicability by stating, “[e]ffective July 1, 2018, a three-month retroactive Medicaid coverage benefit shall apply to a Medicaid applicant who is otherwise Medicaid-eligible and is a resident of a nursing facility licensed under chapter 135C.”

These amendments revise the definitions of “retroactive certification period” and “retroactive period” in Chapter 75 to correctly reference subrule 76.13(3), which defines who is eligible for Medicaid coverage during any or all of the three months preceding the month in which an application is filed.

These amendments also update subrule 76.13(3) to reinstate a three-month retroactive coverage benefit for applicants who are residents of a nursing facility licensed under Iowa Code chapter 135C at the time of application and are otherwise Medicaid-eligible.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 7, 2018, as **ARC 4106C**. The Department received comments from one respondent during the public comment period. The respondent’s consolidated comment and the Department’s response are as follows:

Comment: The respondent requested that the Department include all providers in being able to bill for Medicaid services retroactively.

The respondent stated that retroactive enrollment occurs when an individual has applied for Medicaid and enrollment is granted with an effective date prior to the date the enrollment determination was made, that this has historically allowed for a 90-day look back and that this is especially important to hospitals because a patient seeking services can complete the application for Medicaid while the patient is immediately receiving the necessary medical services and the hospital is then able to be reimbursed for the services the hospital provided for up to three months prior to the effective date.

The respondent also stated that pursuant to federal law, hospitals must examine and treat individuals who have an emergency medical condition and present in an emergency room, regardless of coverage or ability to pay, and that retroactive enrollment had always provided a mechanism for reimbursement for emergency services provided. The respondent noted that this coverage was eliminated during the 2017 Legislative Session.

The respondent asked the following questions under the premise that retroactive Medicaid coverage benefits apply only to Medicaid applicants residing in a nursing facility:

1. If a Medicaid-eligible individual first receives care in a hospital setting and is then moved to a nursing facility for post-hospital care, would the services the individual received in the hospital then be covered by Medicaid when the individual applies for the Medicaid benefit at the nursing facility?

2. If a Medicaid-eligible individual in need of hospital care were to forgo that necessary care and instead go straight to a nursing facility because of the ability to apply for a three-month retroactive Medicaid coverage benefit, how would the Department prevent this scenario from occurring?

Department response: 2018 Iowa Acts, Senate File 2418, required reinstatement of retroactive eligibility for individuals residing in nursing homes on the date of application. In accordance with Senate File 2418, which was passed by the Iowa Legislature during the 2018 session, the Department is revising the policy to reinstate a three-month retroactive Medicaid coverage benefit for applicants who are residents of a nursing facility (licensed under Iowa Code chapter 135C) at the time of application and are otherwise Medicaid-eligible.

In order to restore retroactive coverage for all Medicaid applicants, the Department must have legislative authority.

Whether the hospital receives a Medicaid reimbursement for services already provided may not always be dependent on retroactive coverage policy. When an application for Medicaid is filed with the Department, the effective date of Medicaid eligibility is the first day of the month in which the application was filed. Therefore, if an application is filed within the same month in which the services were received, the hospital could still receive Medicaid reimbursement for those services, as long as the application resulted in an approval of eligibility.

The respondent's questions assume that although a person is Medicaid-eligible, the person may not be on Medicaid at the time of hospital services. Facility-based Medicaid relates only to services provided in the nursing facility.

The Department did not revise the rule making based on the comments of the respondent. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 12, 2018.

Fiscal Impact

This rule making has a fiscal impact of \$100,000 annually or \$500,000 over five years to the State of Iowa. 2018 Iowa Acts, Senate File 2418, reinstates the three-month retroactive Medicaid coverage benefit for residents of nursing facilities if the residents are otherwise Medicaid-eligible during the retroactive period. Reinstating the three-month retroactive Medicaid coverage benefit to this population will allow more eligible people to receive Medicaid benefits during the retroactive months. Funding to restore retroactive eligibility for residents of long-term care facilities was authorized during the 2018 Legislative Session.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—75.25(249A)**, definitions of “Retroactive certification period” and “Retroactive period,” as follows:

“*Retroactive certification period*” for medically needy shall mean one, two, or three calendar months prior to the date of application, as provided in 441—subrule 76.13(3). The retroactive certification period begins with the first month Medicaid-covered services were received and continues to the end of the month immediately prior to the month of application.

“*Retroactive period*” shall mean the three or fewer calendar months immediately preceding the month in which an application is filed, pursuant to 441—subrule 76.13(3).

ITEM 2. Amend subrule 76.13(3) as follows:

76.13(3) Retroactive enrollment.

a. Except as provided in paragraph 76.13(3) “*e*,” medical assistance shall be available for all or any of the three months preceding the month in which an application is filed to a person who was pregnant, ~~or~~ an infant (under the age of one), or a resident of a nursing facility licensed under Iowa Code chapter 135C during any of the three months and who:

(1) and (2) No change.

b. No change.

c. Retroactive medical assistance shall be made available when an application has been made on behalf of a deceased person who was an infant, ~~or was pregnant,~~ or a resident of a nursing facility licensed under Iowa Code chapter 135C if the conditions in paragraph 76.13(3) “*a*” are met.

d. and *e.* No change.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/19.